

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27/09/2004

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

W.P.No.18114 of 2002

and

W.P.18115 of 2002

B. Uma .. Petitioner in both WPs.

-Vs-

1. The State Level Caste
Scrutiny Committee
rep. by its Chairman
& Secretary to Govt.,
Adi Dravidar & Tribal
Welfare Dept.,
Chennai-9.

2. The District Collector &
Chairman,
District Level Vigilance
Committee,
Chennai-1.

3. The Oil & Natural Gas Corpn.
Ltd., rep. by its General
Manager, Chennai. .. Respondents in both Wps.

Writ Petitions filed under Article 226 of the Constitution of India praying for the reliefs as stated therein.

For petitioner : Mrs.V.J.Latha

For respondents : Mr.R.Chandrasekaran, G.A. for R1 & R2
Mr.A.R.Nagarajan for R3.

:O R D E R

W.P.No.18114 of 2002 has been filed praying to issue a Writ of
Certiorari calling for the records of the first respondent in proceedings
No.19996/ADW/2/2000 dated 29.4.2002 and quash the same.

2. W.P.No.18115 of 2002 has been filed praying to issue a Writ of Certiorari calling for the records of the third respondent in proceedings No.35732(25)/SCRO/E.III dated 21.5.2002 and quash the same.

3. The case of the petitioner is that her father belongs to Hindu Gowda community and her mother belongs to Hindu Adi Dravida Community. There is no dispute or controversy among the parties so far as these facts are concerned. There is also no dispute as to the coming into existence of G.O. Ms. No.477 dated 27.7.1975, according to which the petitioner is at liberty to choose the caste of either the father or the mother. To clarify, the G.O. gives liberty for the petitioner to choose anyone of the castes of her parents.

4. The case of the respondents is that when the petitioner was in the School, she was assigned with the caste of her father, viz., Hindu Gowda and suddenly at the time that she was seeking job, she changed her caste to that of her mother i.e. Hindu Adi Dravida and that is objected to on the part of the respondents.

5. This Court is unable to see any objection that could be raised in this manner for the petitioner offering the caste of her mother, particularly in the light of the facts that when she was a minor, her father had given his caste in the school records for her and after her becoming a major, she had thought it fit to adopt the caste of her mother, particularly in view of the fact that she was within her right to adopt the caste of her mother, i.e., within the meaning of the G.O. cited supra, and therefore, in exercise of such legal right, the petitioner offered the caste of her mother to her advantage, in which this Court is unable to see anything wrong committed on the part of the petitioner.

6. Learned counsel appearing on behalf of the respondents would argue to the effect that even when the petitioner was studying, her parents, acting on her behalf as guardians, changed the caste of the petitioner from that of the father to that of the mother.

7. It must be seen that they were at liberty to do so only for the advantage of the child and they have done it in the proper manner and there was no law obstructing them at that time from changing the caste of the petitioner, and in fact, after a little latitude of time, the same set up came to be approved by the G.O. cited above, and therefore, this Court is unable to find any irregularity or inconsistency or illegality on the part of the change of the caste by the petitioner in the school records and the other records connected, since it is only a change from the caste of the father to that of the mother i. e. within the permissible limits of law and nothing else, and therefore, so long as the respondents are not able to establish that the caste of the mother has not been offered, but something else, they have no case to offer, particularly when the petitioner is at liberty to choose either

of the two after becoming a major. The petitioner having only maintained the caste of her mother, did not seek to offer a change of the caste for herself which is neither of her father nor of her mother. Secondly, she had not only continued to belong to the caste of the mother, i.e. Hindu Adi Dravida, but also offered the same at the time of entering the services of the third respondent and it is perfectly legal and nothing fishy nor any illegality is able to be seen by this Court in the option exercised either by the parents or by the petitioner herself at the time of her entering the service.

8. In interpreting the G.O.Ms.No.477 dated 27.7.1975 to the facts of the case of the petitioner, it could be decided taking into consideration, the school certificate of her mother to the effect of arriving at the conclusion that the petitioner's mother was belonging to the Adi Dravidar Community, the State Level Committee could not arrive at any other conclusion excepting to confirm the same. Moreover, the declaration given by the father to the effect of adopting his caste to his daughter cannot in any manner take away the right of the petitioner, who is having the independent locus standi to choose her own caste among the father and the mother and on her attaining majority under the law, she is free to adopt either of the castes of her parents and there is nothing wrong in adopting the caste of her mother and even this Court is unable to find any irregularity in her parents coming forward to change the caste of their daughter, the petitioner herein from that of her father to that of her mother since they are within their rights to do so. Therefore, if at all the G.O. is interpreted to the extent of denying the attempt of the petitioner, it is only the G.O. which could be held null and void, provided the same advocates anything against the genuine interest of the citizens such as the petitioner and the rights of the petitioner cannot be taken away under the G.O.

9. In fact, either of the parents of the petitioner or the petitioner herself is at liberty and having the right to adopt any of the castes of her parents which came to be ascertained by the G.O. later, and therefore, there is no much to loiter about adopting the caste of the mother by the petitioner which is an undisputed fact and if at all it is the strong case of the respondent that the mother is not belonging to the particular caste of Adi Dravida, it is upto them to prove by authenticated documents which they fail to do and in such circumstances, the only course that the respondents could have adopted is to approve the caste as entered into the records of the petitioner, which is the caste of her mother and failing to do the same, the conclusions arrived at by both the District Level Vigilance Scrutiny Committee headed by the District Collector and the State Level Caste Scrutiny Committee represented by its Chairman and Secretary to Government, have to be declared erroneous. Instead of rejecting the claim of the petitioner that she belonged to Adi Dravida Community, they should have declared the same to be correct within the ambit of law which they have failed to do under miserable misconception of the legality on the subject.

10. Leaving the basis for consideration to strike the decision in such matters, both the District Level and State Level Committees have travelled on the wrong path so as to arrive at erroneous conclusions as they have arrived at. All the exercises undertaken by the respondents have been thoughtless of the fact that the petitioner was at liberty to adopt the

caste of either of her parents and the respondents are not to dictate or impose their will in such option being exercised by the parents of the petitioner on her behalf when she was a minor or even thereafter by the petitioner herself, when she entered the service, and therefore, this Court is not able to find anything irregular or illegal or improper in the matter of the petitioner continuing to maintain the caste of her mother as that of herself and hence, the above writ petition has to be answered in the affirmative.

11. Moreover, coming to its operational sphere of the G.O., the petitioner, at the time of the introduction of the G.O., is stated to have been 16 years of age and even in the event of the change of her caste in the relevant records from that of the father to that of the mother or on the vice versa, since being her right, such of the change effected by her parents is perfectly within the parameters of law. Likewise, the change is only to her advantage and she need not have to take shelter under the G.O. for which even otherwise she is entitled to and therefore, just for the simple reason that she has come forward to claim her right under the G.O., it does not mean that even otherwise, what she is entitled to under law could be denied.

In result, for all the above discussions held, the conclusions that are to be arrived at are as follows:-

(i) both the above writ petitions stand allowed and they are ordered as prayed for;

(ii) the impugned orders of the first respondent in proceedings No.19996/ADW/2/2000 dated 29.4.2002 and that of the third respondent in proceedings No.35732(25)/ SCRO/E.III dated 21.5.2002 are quashed;

(iii) the third respondent herein is directed to reinstate the petitioner into service within 15 days from the day that this order copy is made ready with all backwages and attendant benefits as if the petitioner continued to be in service from the date of her termination and report compliance to this Court in seven days thereafter;

(iv) consequently, WPMP No.24729 of 2002 is closed;

(v) however, in the circumstances of the case, there shall be no order as to costs.

Index:Yes.

Internet:Yes.

To

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Scrutiny Committee
rep. by its Chairman
& Secretary to Govt.,
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Chennai-9.

2. The District Collector &
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